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State of New Jersey

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June 1, 1983

Honorable Reginald Stanton
Superior Court of New Jersey
228 Hall of Records
Newark, New Jersey 07102

Re: State of New Jersey, Department of Environmental
Protection v. Scientific Chemical Processing, Inc., et al.
Docket No. L-1852-83E

Dear Judge Stanton:

Enclosed herewith, please find original and two copies of Order which I believe is consistent with Your Honor's ruling from the bench on Friday, May 27, 1983. This Order is hereby submitted under the 5 day rule. Accordingly, if specific objections are not submitted by my adversaries within 5 days, the Order may be executed. Kindly return one executed copy of the Order to my office in the enclosed stamped envelope.

Thank you for your attention to this matter.

Respectfully yours,

IRWIN I. KIMMELMAN
ATTORNEY GENERAL

By David W. Reger
David W. Reger
Deputy Attorney General

DWR:map
Enclosures
cc: Harriet Sims Harvey, Esq.
Edward J. Egan, Esq.
Paul S. Barbira, Esq.
Herbert G. Case
Leif R. Sigmond
(with enclosure)

345813



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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
ESSEX COUNTY

DOCKET NO. C-1852-83E

STATE OF NEW JERSEY, DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiffs,

vs.

SCIENTIFIC CHEMICAL PROCESSING, INC.,
a corporation, et al.,

Defendants

Civil Action

ORDER

This matter having been brought before the Court on Order
To Show Cause by Irwin I. Kimmelman, Attorney General of New Jersey,
Attorney for State of New Jersey, Department of Environmental
Protection, Deputy Attorney General David W. Reger appearing and
Harriet Sims Harvey, Esq. appearing on behalf of defendant Mack

Barnes; and Edward J. Egan, Esq. appearing on behalf of defendants Inmar Associates, Inc. and Marvin Mahan; and Paul S. Barbira, Esq. appearing on behalf of defendants, Sigmond and Presto, a partnership and Dominick Presto individually; and Herbert G. Case and Leif R. Sigmond appearing pro se; and

It further appearing that the return date for the Order To Show Cause filed with the Court on May 5, 1983 was set down for May 27, 1983; and

It further appearing that defendants, Scientific Chemical Processing, Inc. (SCP), Energall, Inc. (Energall) and Presto, Inc. (Presto) operated special waste facilities wherein chemical waste was reprocessed, treated, reclaimed and/or disposed of at 411 Wilson Avenue, City of Newark, Essex County, New Jersey (Newark site) and 216 Paterson Plank Road, Carlstadt, Bergen County, New Jersey (Carlstadt site); and

It further appearing that an administrative hearing captioned "In the Matter of Court Ordered Administrative Hearing on Scientific Chemical Processing, Energall, Inc. and Presto, Inc." was conducted in June and July 1979 regarding the operations of said corporations and the conditions which existed at the Newark and Carlstadt sites; and

It further appearing that on October 11, 1979 Administrative Law Judge Lewis P. Goldshore issued his report and recommended decision which was thereafter approved by the Commissioner of the Department of Environmental Protection (DEP) and affirmed by the Appellate Division; and

It further appearing based upon the aforesaid report and affidavits attached to the Complaint that perilous and dangerous conditions presently exist at both the Newark and Carlstadt sites which threaten the public health, safety and welfare; and

It further appearing that neither the owners, operators and/or directors of SCP, Energall and Presto, nor the landowners of the Newark and Carlstadt sites have taken appropriate action to cleanup said sites and abate the danger which they pose; and

It further appearing that the Newark and Carlstadt sites must be cleaned up forthwith,

And the court having considered the Verified Complaint and affidavits attached thereto, plaintiff's Brief in Support of the Order To Show Cause, the papers submitted in opposition thereto, the arguments of counsel, and for good cause shown;

IT IS on this day of , 1983, ORDERED that:

1. The Administrative Law Judge's report and recommended decision "In the Matter of Court Ordered Administrative Hearing on Scientific Chemical Processing, Energall, Inc. and Presto, Inc." dated October 11, 1979, is and shall be binding, in rem, in the within action.

2. With the exception of defendant Mahan, all defendants, including SCP, Energall, Presto, Sigmond, Case, Barnes and Dominick Presto, together with landowners Sigmond and Presto, partnership and its individual partners (Newark site) and Inmar Associates, Inc.

(Carlstadt site) are responsible for cleanup of the sites which they were associated or connected with, ~~as set forth in the aforesaid Administrative Law Judge's report and recommended decision dated October 11, 1979, the Complaint and Brief in Support of Order To Show Cause.~~

3. On June 17, 1983 the Court shall decide the issue of whether defendant Marvin Mahan is individually liable for cleanup of the Carlstadt site. The State shall submit a brief in support of its position by June 7, 1983 and Mahan shall submit his reply brief by June 15, 1983.

4. The Commissioner of the Department of Environmental Protection is appointed custodian of the Newark and Carlstadt sites with responsibility for physical security of the sites, authority to exclude all persons from entry thereon and authority to take other measures which it deems necessary in connection with this responsibility.

5. Each defendant, with the exception of Mahan, shall submit to the court and DEP by July 1, 1983, comprehensive plan for cleanup of the site/sites which he was connected or associated with. All financial resources to be dedicated thereto shall clearly be set forth. More than one defendant may adopt a joint cleanup plan. The only basis to be excused from the provisions of this paragraph to the Order shall be by submission of a detailed financial plan showing that said defendant is incapable of contributing to or paying for cleanup.

6. On Thursday, July 7, 1983, a hearing shall be held regarding the adequacy of the proposals submitted by the aforesaid defendants.

7. All defendants with the exception of Mahan shall have a lien impressed upon their property, real and personal, within the State of New Jersey until further order of this Court. Further, said defendants shall not transfer or encumber said property without leave of the Court. In the event a need arises to transfer assets, application may be made to the Court, on two day's notice, for leave to do so.

8. No additional parties, including generators, shall be added to this litigation.

Reginald Stanton, J.S.C.

Harriet Sims Harvey

ATTORNEY AT LAW
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EXECUTIVE DEPT.

June 7, 1983

Honorable Reginald Stanton
Superior Court of New Jersey
228 Hall of records
Newark, New Jersey 07102

RE: State of New Jersey, DEP v.
Scientific Chemical Processing,
Inc., et al.
Docket No. C-1852-83E

Dear Judge Stanton:

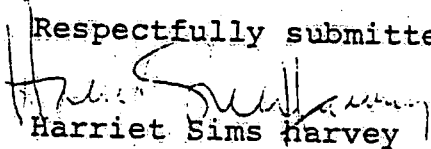
I am in receipt of the proposed order drafted by Mr. Reger, in regard to the above-captioned matter, in reliance on your ruling of May 27, 1983.

My recollection, substantiated by questioning of my client, Mr. Barnes, was that a lien was to be placed only upon the defendants' real property. However, paragraph 7 of the proposed order recites: "All defendants...shall have a lien impressed upon their property, real and personal..."[It is my understanding that the liability of Mr. Mahan shall be decided on June 17, 1983.]

I must object strongly to the inclusion of any liens being placed upon the personal property of these defendants. This was not within the language of your ruling, and would create an undue hardship.

Thank you for your attention to this point.

Respectfully submitted,


Harriet Sims Harvey

HSB/nks

cc: David W. Reger/DAG
Edward J. Egan, Esq. ✓

Paul S. Barbire, Esq.
Herbert Case
Leif R. Sigmond